HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.24329 of 2006

Date : 29-11-2006

Between:

Smt.Sadat Khatoon
and another .. Petitioners

and

Municipal Corporation of Hyderabad,
represented by its Commissioner,
Hyderabad. .. Respondent

HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.24329 of 2006

ORDER:

1. The matter is coming up for admission today.

2. This Court ordered notice before admission on 2-11-2006 and directed status quo to be maintained for a limited period.

3. Sri Noushad Ali, the learned Counsel representing the writ petitioners had taken this Court through the affidavit filed in support of the Writ Petition and would submit that without following the due process of law the respondent is contemplating to demolish the structures of the petitioners in the subject matter of the Writ Petition.

4. Sri Ganta Rama Rao, the learned standing Counsel representing the respondent would submit that inasmuch as it is stated that aggrieved by the order in L.G.C.No.170/97 dated 28-12-2005, the petitioners filed W.P.No.21970/2006 before this Court, till the matter is decided it cannot be said that the petitioners are the owners. The Counsel also would submit that even otherwise at present there is no proposal to take up the

demolition activity, but however the Counsel also would submit that in the event of such action of demolition of the subject matter of the Writ Petition being initiated, the respondent is prepared to follow the procedure as per the provisions of Hyderabad Municipal Corporations Act 1955.

5. The Writ Petition is filed for a writ of mandamus directing the respondent-Corporation not to demolish the structures of the petitioners in an extent of 500 sq. yards bearing Municipal No. 10-5-2/1/8/3, situate at Masab Tank, Hyderabad except by due process of law and to pass such other suitable orders.

6. It is stated that the petitioners are the owners and possessors of the premises bearing Municipal Door No.10-5-2/1/8/3, admeasuring about 500 sq. yards comprising therein with structures situate at Masab Tank, Hyderabad. The petitioners purchased the said property by virtue of three separate sale deeds vide registered sale deeds dated 25-11-1988, 25-11-1988 and 29-11-1988 bearing registered document Nos.2840/1989, 2841/1989 and 2842/1989 respectively. It is further stated that the petitioners have been in peaceful possession and enjoyment of the said property ever since the day of purchase. Prior to the purchase of the said property by the petitioners, their predecessors in title have been in peaceful possession and enjoyment of the said property for more than six decades. It

is further stated that a part of the said land had been acquired by the respondent-Corporation in the year 1980 for the purpose of road widening. The respondent-Corporation had also accorded sanction to the petitioners for the construction of compound wall together with watchman's quarter etc., and the extent of land affected in road widening admeasuring about 200 sq. yards had been handed over to the respondent-Corporation by their predecessors in title. It is also further stated that in the year 1997 when the respondent-Corporation illegally tried to demolish the structures, the petitioners filed W.P.No.26465/97 and the same was disposed of with certain directions and the respondent-Corporation is shown as 3rd respondent in the said Writ Petition. It is also stated that while so the Mandal Revenue Officer, Asifnagar Mandal representing the Government of Andhra Pradesh filed a land grabbing case before the Special Court under A.P. Land Grabbing (Prohibition) Act in L.G.C.No.170/97 against several respondents and these petitioners were shown as respondent Nos.65 and 66 in the said L.G.C. It is also stated that the Special Court disposed of L.G.C.No.170/97 with a direction to the respondent therein to regularize the said property by fixing a reasonable value by its final order dated 28-12-2005. It is also stated that aggrieved by the said order made in L.G.C.No.170/97 dated 28-12-2005 the

petitioners filed W.P.No.21970/2006 before this Court and the Division Bench of this Court made an order of status quo till further orders by order dated 16-11-2006. It is also stated that while the things stand thus on 18-11-2006 the respondent-Corporation illegally tried to demolish the said property of the petitioners for the alleged purpose of road widening/junction development without following the procedure as contemplated by the provisions of Hyderabad Municipal Corporations Act 1955. It is also stated that the petitioners resisted the said illegal acts and the respondent-Corporation officials went away threatening that they will come again with the aid of police for the purpose of road widening. Thus, in such circumstances it is stated that the petitioners are left with no other option except to approach this Court praying for the relief referred to supra.

7. It appears that there appears to be some dispute relating to the ownership or title and however it is needless to say that the same is the subject matter of W.P.No.21970/2006 said to be pending before the Division Bench of this Court. It is also stated that an order of status quo was made. It is needless to say that any further steps which may be taken by the respondent while following the procedure under the Hyderabad Municipal Corporations Act 1955 would be subject to the further orders or the clarification which may be issued in W.P.No.21970/2006. Be that as it may, when the petitioners are not inclined to

give their consent and when such parties being in possession of the property are raising objection, it is needless to say that the respondent-Corporation is bound to follow the due process of law as contemplated by the provisions of the Hyderabad Municipal Corporations Act 1955. It is needless to say that the final disposal or disbursement of the compensation amount be subject to the further orders which may be passed by way of clarification in W.P.No.21970/2006.

8. With the above observation the Writ Petition is disposed of directing the respondent not to resort to any demolition activity of the subject matter of the Writ Petition unless and until the respondent-Corporation follows the due process of law as aforesaid. No costs.

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Justice P.S. Narayana

Date : 29-11-2006

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